

AMENDED IN ASSEMBLY APRIL 4, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 908

Introduced by Assembly Member Chu

February 18, 2005

An act to ~~amend Section 100333 of~~ *add Section 111761 to, and to add Article 5 (commencing with Section 111821) to Chapter 7 of Part 5 of Division 104 of, the Health and Safety Code, relating to public health cosmetics.*

LEGISLATIVE COUNSEL'S DIGEST

AB 908, as amended, Chu. ~~Cosmetics Compilation of hazardous materials laws~~ *cosmetics.*

~~Existing law requires the State Department of Health Services to annually publish a compilation of the laws regarding hazardous materials. Existing law authorizes the department to contract with Legislative Counsel and the Department of General Services to create, print, and distribute the compilation. Existing law states the intent of the Legislature that the revenues from the distribution of the compilation be used by the department to fund the creation of the compilation.~~

~~This bill would make a technical, nonsubstantive change to existing law.~~

The existing Sherman Food, Drug, and Cosmetic Law regulates the packaging, labeling, and advertising of food, drugs, and cosmetics. The law prohibits a person from manufacturing, selling, delivering, holding, offering for sale, or receiving in commerce any cosmetic that is adulterated, and prohibits a person from adulterating any cosmetic. The law also prohibits a person from manufacturing or selling any

cosmetic that is misbranded, as prescribed. A violation of that law is punishable as a misdemeanor.

This bill would, in addition, provide that any cosmetic is misbranded if sold by Internet Web site where the list of ingredients in the cosmetic is not easily and readily available to be viewed by the prospective purchaser before the purchase is completed. This bill would also, on and after January 1, 2007, the bill would prohibit a person or entity from manufacturing, selling, or distributing in commerce any cosmetic that contains dibutyl phthalate (DBP) or di-(2-ethylhexyl) phthalate (DEHP). By creating new crimes, this bill would establish a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 100333 of the Health and Safety Code~~
- 2 ~~is amended to read:~~
- 3 SECTION 1. Section 111761 is added to the Health and
- 4 Safety Code, to read:
- 5 111761. (a) Any cosmetic is misbranded if it is sold by
- 6 Internet Web site and the list of ingredients in the cosmetic is not
- 7 easily and readily available to be viewed by the prospective
- 8 purchaser before the purchase is completed.
- 9 (b) The Legislature finds and declares the following:
- 10 (1) Federal regulations (Sections 701.2 and 701.3 of Title 21
- 11 of the Code of Federal Regulations) require that cosmetic
- 12 products produced for retail sale have their ingredients listed
- 13 conspicuously on the product label so that they are likely to be
- 14 read at the time of purchase.
- 15 (2) Pursuant to federal regulations, the sale of a cosmetic
- 16 product by an Internet Web site without the opportunity for the
- 17 consumer to view the ingredients in that product violates federal
- 18 labeling requirements and constitutes misbranding.

1 *SEC. 2. Article 5 (commencing with Section 111821) is added*
2 *to Chapter 7 of Part 5 of Division 104 of the Health and Safety*
3 *Code, to read:*

4
5 *Article 5. Phthalates in Cosmetic Products*
6

7 *111821. The Legislature finds and declares all of the*
8 *following:*

9 *(a) Phthalates are industrial plasticizers widely used in*
10 *cosmetic products to moisturize and soften skin, dissolve*
11 *ingredients, and retain flexibility in nail polish after it dries.*

12 *(b) Numerous peer-reviewed scientific studies have found that*
13 *phthalates can damage the female and male reproductive*
14 *systems. The reproductive systems of male fetuses exposed during*
15 *a woman's pregnancy can result in testicular atrophy, low sperm*
16 *count, and other reproductive disorders.*

17 *(c) The National Institute for Occupational Safety and Health*
18 *(NIOSH) and the United States Food and Drug Administration*
19 *(FDA) have determined that the phthalate DEHP causes*
20 *developmental and reproductive toxicity, and DEHP has been*
21 *identified by the state as causing reproductive toxicity. The*
22 *National Toxicology Program (NTP) has identified the phthalate*
23 *DBP as causing reproductive toxicity, and on March 4, 2005, the*
24 *state declared its intent to list DBP as a chemical causing*
25 *reproductive toxicity.*

26 *(d) In 2004 the 15 countries of the European Union prohibited*
27 *the manufacture or sale of cosmetics containing DBP and*
28 *DEHP, based on their reproductive toxicity.*

29 *(e) Alternatives to the use of DBP and DEHP are readily*
30 *available, as demonstrated by the growing number of cosmetics*
31 *manufacturers, including several of the largest multinational*
32 *companies with large markets in Europe, that have eliminated or*
33 *promised to eliminate the use of phthalates from their products.*

34 *111822. For the purposes of this article the following*
35 *definitions apply:*

36 *(a) "DBP" means dibutyl phthalate.*

37 *(b) "DEHP" means di-(2-ethylhexyl) phthalate.*

38 *111823. On and after January 1, 2007, no person or entity*
39 *shall manufacture, sell, or distribute in commerce any cosmetic*
40 *that contains DBP or DEHP.*

1 *SEC. 3. No reimbursement is required by this act pursuant to*
2 *Section 6 of Article XIII B of the California Constitution because*
3 *the only costs that may be incurred by a local agency or school*
4 *district will be incurred because this act creates a new crime or*
5 *infraction, eliminates a crime or infraction, or changes the*
6 *penalty for a crime or infraction, within the meaning of Section*
7 *17556 of the Government Code, or changes the definition of a*
8 *crime within the meaning of Section 6 of Article XIII B of the*
9 *California Constitution.*

10 ~~100333. (a) The department shall annually compile and~~
11 ~~publish the laws relating to the use, handling, transportation,~~
12 ~~storage, and disposal of hazardous materials, including, but not~~
13 ~~limited to, hazardous wastes, flammable materials, corrosives,~~
14 ~~explosives, pesticides, and radioactive materials together with~~
15 ~~laws relating to administration, enforcement, and emergency~~
16 ~~response. The compilation shall reflect the amendments,~~
17 ~~additions, and deletions enacted each year.~~

18 ~~(b) The department may contract with the Legislative Counsel~~
19 ~~to prepare the compilation of laws required by subdivision (a)~~
20 ~~and with the Department of General Services to print and~~
21 ~~distribute the compilation. Copies of the compilation shall be~~
22 ~~distributed at cost.~~

23 ~~(c) It is the intent of the Legislature to appropriate revenues~~
24 ~~received from the distribution of the compilation to the~~
25 ~~department for carrying out the purposes of this section.~~